

**DRAFT Do not cite or quote****Section 1. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-31 as follows:****(NEW) Section 22a-174-31. Control of Carbon Dioxides Emissions**

**(a) Definitions and Abbreviations.** For the purposes of this section and section 22a-174-31a of the Regulations of Connecticut State Agencies:

- (1) “Account number” means the identification number given by the commissioner to each CO<sub>2</sub> Allowance Tracking System account;
- (2) “Allocate” or “allocation” means the determination by the commissioner of the number of CO<sub>2</sub> allowances to be initially credited to a CO<sub>2</sub> budget source, an allocation set-aside account, the consumer benefit or strategic energy purpose account, the general account of the sponsor of an approved CO<sub>2</sub> emissions offset project or any other person;
- (3) “Allocation year” means a calendar year for which the commissioner allocates CO<sub>2</sub> allowances pursuant to subsection (f) of this section. The allocation year of each CO<sub>2</sub> allowance is reflected in the unique identification number given to the allowance pursuant to subsection (g)(4)(C) of this section;
- (4) “Attribute” means a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, source vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted, and tracked;
- (5) “Attribute credit” means an attribute credit represents the attributes related to one megawatt-hour of electricity generation;
- (6) “Automated data acquisition and handling system” or “DAHS” means that component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under subsection (i) of this section, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by subsection (i) of this section;
- (7) “Billing meter” means the measurement device used to measure electric or thermal output for commercial billing under a contract where the facility selling the electric or thermal output has different owners from the owners of the party purchasing the electric or thermal output;
- (8) “Boiler” means a fossil or other fuel-fired device that produces steam or heats water or any other heat transfer medium;
- (9) “CO<sub>2</sub>” means carbon dioxide;

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(10) “CO<sub>2</sub> allowance” means a limited authorization by the commissioner under the CO<sub>2</sub> Budget Trading Program to emit up to one ton of CO<sub>2</sub>, subject to all the applicable conditions contained in this section under which no provision of this section shall be construed to limit the authority of the commissioner to terminate or limit such limited authorization to emit, which does not constitute a property right;

(11) “CO<sub>2</sub> allowance deduction” or “deduct CO<sub>2</sub> allowances” means the permanent withdrawal of CO<sub>2</sub> allowances by the commissioner from a CO<sub>2</sub> Allowance Tracking System compliance account to account for the number of tons of CO<sub>2</sub> emissions from a CO<sub>2</sub> budget source for a control period, determined in accordance with subsection (i) of this section, or for the forfeit or retirement of CO<sub>2</sub> allowances as provided by this section;

(12) “CO<sub>2</sub> allowances held” or “hold CO<sub>2</sub> allowances” means the CO<sub>2</sub> allowances recorded by the commissioner, or submitted to the commissioner, in accordance with subsections (g) and (h) of this section, in a CO<sub>2</sub> Allowance Tracking System account;

(13) “CO<sub>2</sub> allowance price” means the price for CO<sub>2</sub> allowances across all participating states for a particular month as determined by the commissioner, calculated based on a volume-weighted average of transaction prices reported to the department, and taking into account publicly reported prices;

(14) “CO<sub>2</sub> Allowance Tracking System” means the system by which the commissioner records allocations, deductions, and transfers of CO<sub>2</sub> allowances under the CO<sub>2</sub> Budget Trading Program under this section, the system used to track CO<sub>2</sub> offset allowance projects under section 22a-174-31a of the Regulations of Connecticut State Agencies, and the system used to track CO<sub>2</sub> allowance prices and emissions from affected sources;

(15) “CO<sub>2</sub> Allowance Tracking System account” means an account in the CO<sub>2</sub> Allowance Tracking System established by the commissioner for purposes of recording the allocation, holding, transferring, or deducting of CO<sub>2</sub> allowances;

(16) “CO<sub>2</sub> allowance transfer deadline” means midnight of March 1 occurring after the end of the relevant control period or, if that March 1 is not a business day, midnight of the first business day thereafter and is the deadline by which CO<sub>2</sub> allowances must be submitted for recordation in a CO<sub>2</sub> budget source’s compliance account in order to meet the source’s CO<sub>2</sub> budget emissions limitation for the control period immediately preceding such deadline;

(17) “CO<sub>2</sub> authorized account representative” means the individual who is authorized by the owners or operators of the source and all CO<sub>2</sub> budget sources at the source, in accordance with subsection (c) of this section, to represent and legally bind each owner or operator in matters pertaining to the CO<sub>2</sub> Budget Trading Program or, for a general account, the individual who is authorized, in accordance with subsection (g) of this section, to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account;

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- (18) “CO<sub>2</sub> budget emissions limitation” means the tonnage equivalent of the CO<sub>2</sub> allowances available for compliance deduction for the CO<sub>2</sub> budget source for a control period;
- (19) “CO<sub>2</sub> budget permit” means the portion of the legally binding permit issued by the commissioner pursuant to section 22a-174-33 of the Regulations of Connecticut State Agencies to a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit that specifies the CO<sub>2</sub> Budget Trading Program requirements applicable to the CO<sub>2</sub> budget source, to each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source, and to the owners or operators and the CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit;
- (20) “CO<sub>2</sub> budget source” means a facility that includes one or more CO<sub>2</sub> budget units;
- (21) “CO<sub>2</sub> Budget Trading Program” means the multi-state CO<sub>2</sub> air pollution control and emissions reduction program established pursuant to this section and corresponding regulations in other states as a means of reducing emissions of CO<sub>2</sub> from CO<sub>2</sub> budget sources;
- (22) “CO<sub>2</sub> budget unit” means an emissions unit that is subject to the CO<sub>2</sub> Budget Trading Program requirements under subsection (b) of this section;
- (23) “CO<sub>2</sub> equivalent” means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP);
- (24) “CO<sub>2</sub> offset allowance” means a CO<sub>2</sub> allowance that is awarded to the sponsor of a CO<sub>2</sub> emissions offset project pursuant to section 22a-174-31a of the Regulations of Connecticut State Agencies and is subject to the relevant compliance deduction limitations of this section;
- (25) “Combined cycle system” means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production;
- (26) “Combustion turbine” means an enclosed fossil or other fuel-fired device that is comprised of a compressor, if applicable, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine;
- (27) “Commence commercial operation” means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. For a unit that is a CO<sub>2</sub> budget unit on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit on the date the unit commences commercial operation, the date the unit becomes a CO<sub>2</sub> budget unit for the purposes of this section shall be the unit's date of commencement of commercial operation;
- (28) “Commence operation” means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. For a unit that

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is a CO<sub>2</sub> budget unit on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit on the date of commencement of operation, the date the unit becomes a CO<sub>2</sub> budget unit shall be the unit's date of commencement of operation;

(29) "Commissioner" means "commissioner" as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies, provided that the term also includes the executive director, or other official of similar title, of any regional organization developed and structured to assist the states in the implementation of the Regional Greenhouse Gas Initiative and designated as such by the commissioner;

(30) "Compliance account" means a CO<sub>2</sub> Allowance Tracking System account, established by the commissioner for a CO<sub>2</sub> budget source under subsection (g) of this section, in which the CO<sub>2</sub> allowance allocations for the source are initially recorded and in which are held CO<sub>2</sub> allowances available for use by the source for a control period for the purpose of meeting the source's CO<sub>2</sub> budget emissions limitation;

(31) "Connecticut CO<sub>2</sub> Trading Program Base Budget" means the annual amount of CO<sub>2</sub> tons available in Connecticut for allocation in a given allocation year, in accordance with the CO<sub>2</sub> Budget Trading Program. CO<sub>2</sub> offset allowances allocated to project sponsors are separate from and additional to CO<sub>2</sub> allowances allocated from the Connecticut CO<sub>2</sub> Trading Program Base Budget;

(32) "Consumer benefit or strategic energy purpose account" means a general account established by the commissioner pursuant to subsection (f) of this section from which allowances may be sold or distributed in order to provide funds to encourage and foster the promotion of energy efficiency measures, direct mitigation of electricity ratepayer impacts attributable to the implementation of the CO<sub>2</sub> Budget Trading Program, promotion of renewable or non-carbon-emitting energy technologies, stimulation or reward of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, or the administration of Connecticut component of the CO<sub>2</sub> Budget Trading Program;

(33) "Continuous emissions monitoring system" or "CEMS" means the equipment required under subsection (i) of this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes, using an automated data acquisition and handling system, a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration as applicable, in a manner consistent with 40 CFR 75;

(34) "Control period" means a three calendar-year period, unless extended to four years upon occurrence of a Stage Two Trigger Event. The first control period is from January 1, 2009 to December 31, 2011, inclusive, provided if a Stage Two Trigger Event occurs during the first control period, then the first control period will be extended one year to December 31, 2012,

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inclusive. Each subsequent sequential three calendar year period is a separate control period that may be subject to a single one year extension upon occurrence of a Stage Two Trigger Event during the control period;

(35) “Consumer Price Index” or “CPI” means the United States Department of Labor, Bureau of Labor Statistics, unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate. The CPI for any calendar year is the twelve-month average of the CPI published by the United States Department of Labor, as of the close of the twelve-month period ending on August thirty-first of each calendar year;

(36) “Eligible biomass” means sustainably harvested, as determined by the commissioner, woody and herbaceous fuel sources that are available on a renewable or recurring basis, excluding old-growth timber, but including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, biogas, and other neat liquid biofuels derived from such fuel sources;

(37) “Excess emissions” means any tonnage of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during a control period that exceeds the CO<sub>2</sub> budget emissions limitation for the source;

(38) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material;

(39) “Fossil fuel-fired” means, with regard to an emissions unit that commenced operation prior to January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than fifty percent of the annual heat input on a Btu basis during any year, or, with respect to an emissions unit that commences operation on or after January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than five percent of the annual heat input on a Btu basis during any year;

(40) “General account” means a CO<sub>2</sub> Allowance Tracking System account, established under subsection (g) of this section, that is not a compliance account;

(41) “Global warming potential” or “GWP” means a measure consistent with the values used in the IPCC, Third Assessment Report of the radiative efficiency or heat-absorbing ability, of a particular gas relative to that of CO<sub>2</sub> after taking into account the decay rate of each gas, the amount removed from the atmosphere over a given number of years, relative to that of CO<sub>2</sub>;

(42) “Gross generation” means the electrical output in MWe at the terminals of the generator;

(43) “Hr” means hour;

(44) “Lb” means pound;

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(45) “Life-of-the-unit contractual arrangement” means a power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of the participating unit’s nameplate capacity and energy associated therewith while agreeing to pay the proportional amount of such unit’s total costs for either:

- (A) The economic useful life of the unit,
- (B) A cumulative term of no less than 25 years, including agreements that permit an election for early termination, or
- (C) A period equal to or greater than 20 years or seventy percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period;

(46) “Market settling period” means the first fourteen months of any control period;

(47) “Maximum design heat input” means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit;

(48) “Maximum potential hourly heat input” means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input calculated in accordance with 40 CFR 75;

(49) “Monitoring system” means any monitoring system that meets the requirements of subsection (i) of this section, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system;

(50) “MWe” means megawatt electrical;

(51) “MWh means megawatt-hour;

(52) “Nameplate capacity” means the maximum electrical output in MWe that an electric generating unit can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy Standards;

(53) “Operator” means any person who operates, controls, or supervises a CO<sub>2</sub> budget unit or a CO<sub>2</sub> budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source;

(54) “Owner” means any of the following persons:

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- (A) Any holder of any portion of the legal or equitable title in a CO<sub>2</sub> budget unit,
  - (B) Any holder of a leasehold interest in a CO<sub>2</sub> budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO<sub>2</sub> budget unit,
  - (C) Any purchaser of power from a CO<sub>2</sub> budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit, or
  - (D) With respect to any general account, any person who has an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account and who is subject to the binding agreement for the CO<sub>2</sub> authorized account representative to represent that person's ownership interest with respect to the CO<sub>2</sub> allowances;
- (55) "Participating state" means a state that has established a corresponding regulation as part of the CO<sub>2</sub> Budget Trading Program;
- (56) "Receive" or "receipt of" means, when referring to the commissioner, to come into possession of a document, information, or correspondence, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the commissioner in the regular course of business;
- (57) "Recordation", "record" or "recorded" means, with regard to CO<sub>2</sub> allowances, the movement of CO<sub>2</sub> allowances by the commissioner from one CO<sub>2</sub> Allowance Tracking System account to another, for purposes of allocation, transfer or deduction;
- (58) "Renewable energy" means electricity generated from eligible biomass, wind, solar thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels.
- (59) "Serial number" means, when referring to CO<sub>2</sub> allowances, the unique identification number assigned to each CO<sub>2</sub> allowance by the commissioner;
- (60) "Short ton" means a measure of weight equal to two thousand pounds or 0.9072 metric tons.
- (61) "Source" means "source" as defined in section 22a-174-1(101) of the Regulations of Connecticut State Agencies, provided that a source with multiple units, shall be considered a single facility;
- (62) "Stage one threshold price" means the product, in dollars, resulting from the multiplication of seven dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

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Annual adjustment factor =  $1 + \{[\text{CPI}(\text{year}) - \text{CPI}(2005)] / \text{CPI}(2005)\}$ , where:

- (A) CPI means, for purposes of the CO<sub>2</sub> Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for all items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
- (B) CPI (year) means the CPI for all urban consumers for August of the year in which the adjustment is made; and
- (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base;

(63) “Stage two threshold price” means the product, in dollars, resulting from the multiplication of ten dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

Annual adjustment factor =  $1.02 + \{[\text{CPI}(\text{year}) - \text{CPI}(2005)] / \text{CPI}(2005)\}$ , where:

- (A) CPI means, for purposes of the CO<sub>2</sub> Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
- (B) CPI (year) means the CPI for all urban consumers for August of the year in which the adjustment is made; and
- (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base;

(64) “Stage One Trigger Event” means any complete twelve month period following the market settling period during which average CO<sub>2</sub> allowance prices are equal to or greater than the stage one threshold price;

(65) “Stage Two Trigger Event” means any complete twelve month period following the market settling period during which average CO<sub>2</sub> allowance prices are equal to or greater than the stage two threshold price;

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(66) “State” means, notwithstanding the definition set forth in section 22a-174-1(104) of the Regulations of Connecticut State Agencies, any state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands;

(67) “Submit” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation either in person, by United States Postal Service, or by other means of dispatch or transmission and delivery. The date of dispatch, transmission or mailing, and not the date of receipt shall determine compliance with any submission deadline;

(68) “Ton” or “tonnage” means any short tons, calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with subsection (i) of this section, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(69) “Twelve month period” means a period of twelve consecutive months determined on a rolling basis where a new twelve month period begins on the first day of each calendar month;

(70) “Unit” means a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system;

(71) “Unit operating day” means a calendar day in which a unit combusts any fuel; and

(72) “Voluntary renewable energy purchase” means electricity from renewable energy generation or renewable energy attribute credits representing such renewable energy generation, purchased by a retail electricity customer on a voluntary basis, provided that purchases used to meet any regulatory mandate, such as a renewable portfolio standard, shall not be a voluntary renewable energy purchase.

**(b) Applicability and General Provisions**

(1) Applicability. Any unit that, at any time on or after January 1, 2000, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe shall be a CO<sub>2</sub> budget source, and any owner or operator of such source that includes one or more such units shall be the owner or operator of a CO<sub>2</sub> budget source subject to the requirements of this section.

(2) Exemption. Notwithstanding subdivision (1) of this subsection, this section shall not apply to the owner or operator of an electric generating unit that is not subject to section 22a-174-22b of the Regulations of Connecticut State Agencies, the NO<sub>x</sub> Budget Program.

(3) Duty to obtain a permit. The owner or operator of a CO<sub>2</sub> budget source subject to this section shall:

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- (A) Apply for and obtain a Title V permit, or modification thereto, pursuant to section 22a-174-33 of the Regulations of Connecticut State Agencies by:
    - (i) Submitting to the commissioner a complete Title V permit application under subsection (d)(3) of this section in accordance with the deadlines specified in subsection (d)(2) of this section; and
    - (ii) Submitting in a timely manner any supplemental information that the commissioner determines is necessary in order to review the Title V permit application and issue or deny a CO<sub>2</sub> budget permit; and
  - (B) Operate such CO<sub>2</sub> budget source in compliance with the Title V permit, or modification thereto, issued pursuant to section 22a-174-33 of the Regulations of Connecticut State Agencies.
- (4) **Monitoring.** In order to determine compliance with the CO<sub>2</sub> budget emissions limitation set forth under subsection (c) of this section, the owner or operator of a CO<sub>2</sub> budget source subject to this section shall comply with the applicable monitoring requirements set forth in subsection (i) of this section.
- (5) **CO<sub>2</sub> Allowances.** The owner or operator of a CO<sub>2</sub> budget source subject to this section shall be subject to and comply with the following requirements:
- (A) The owners and operators of each CO<sub>2</sub> budget source shall hold CO<sub>2</sub> allowances available for compliance deductions under subsection (g)(5) of this section, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account in an amount not less than the total CO<sub>2</sub> emissions for the control period from all CO<sub>2</sub> budget sources at the source, as determined in accordance with subsections (g) and (i) of this section;
  - (B) Each ton of CO<sub>2</sub> emitted in excess of the CO<sub>2</sub> budget emissions limitation shall constitute a separate violation of this section;
  - (C) A CO<sub>2</sub> budget source shall be subject to the requirements under subsection (c)(1) of this section starting on the later, of January 1, 2009 or the date on which the source commences operation;
  - (D) CO<sub>2</sub> allowances shall be held in, deducted from, or transferred among CO<sub>2</sub> Allowance Tracking System accounts in accordance with subsections (f), (g) and (h) of this section;
  - (E) A CO<sub>2</sub> allowance shall not be deducted, in order to comply with the requirements under subsection (c)(1) of this section, for a control period that ends prior to the year for which the CO<sub>2</sub> allowance was allocated. A CO<sub>2</sub> offset allowance shall

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not be deducted, in order to comply with the requirements under subsection (c)(1) of this section, to cover emissions beyond the applicable percent limitations set forth in subsection (g)(5)(B)(iii) of this section;

- (F) A CO<sub>2</sub> allowance allocated by the commissioner or otherwise acquired by the owner or operator of the CO<sub>2</sub> budget source under the provisions of the CO<sub>2</sub> Budget Trading Program is a limited authorization to emit one ton of CO<sub>2</sub> in accordance with the CO<sub>2</sub> Budget Trading Program. No provision of the CO<sub>2</sub> Budget Trading Program, the Title V permit application, or the CO<sub>2</sub> budget permit or any provision of law shall be construed to limit the authority of the commissioner to terminate or limit such authorization; and
  - (G) A CO<sub>2</sub> allowance allocated by the commissioner or otherwise acquired by the owner or operator of the CO<sub>2</sub> budget source under the CO<sub>2</sub> Budget Trading Program does not constitute a property right.
- (6) Excess Emissions. The owner and operator of a CO<sub>2</sub> budget source that has excess emissions in any control period shall:
- (A) Forfeit the CO<sub>2</sub> allowances required for deduction under subsection (g)(5)(D)(i) of this section;
  - (B) Not be authorized to cover any part of such excess emissions with CO<sub>2</sub> offset allowances under section 22a-174-31a of the Regulations of Connecticut State Agencies; and
  - (C) Comply with any assessment imposed under subsection (g)(5)(D)(iii) of this section, provided that such assessment shall not limit additional enforcement action by the commissioner.
- (7) Recordkeeping and Reporting. The owner and operator of a CO<sub>2</sub> budget source shall comply with the following recordkeeping and reporting requirements:
- (A) Unless otherwise provided, the owner or operator of a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall make and keep at the source each of the following documents for a period of ten years from the date the document is created. This period may be extended by the commissioner for cause at any time prior to the end of the ten year period;
    - (i) The account certificate of representation for the CO<sub>2</sub> authorized account representative for the source and each CO<sub>2</sub> budget unit at the source and all documents that demonstrate the truthfulness and accuracy of the statements made in the account certificate of representation, in accordance with subsection (c)(4) of this section, provided that the certificate and documents shall be retained on site at the source beyond such ten year

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period until such documents are superseded because of the submission of a new account certificate of representation changing the CO<sub>2</sub> authorized account representative;

- (ii) All emissions monitoring information in accordance with subsection (i) of this section;
- (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO<sub>2</sub> Budget Trading Program; and
- (iv) Copies of all documents used to complete a Title V permit application and any other submission under the CO<sub>2</sub> Budget Trading Program or to demonstrate compliance with the requirements of the CO<sub>2</sub> Budget Trading Program.

- (B) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source shall submit the reports and compliance certifications required under the CO<sub>2</sub> Budget Trading Program, including those under subsection (e) of this section.

(8) Liability. The owner and operator of a CO<sub>2</sub> budget source shall be subject to the following:

- (A) No permit revision shall excuse noncompliance with the requirements of the CO<sub>2</sub> Budget Trading Program that occur prior to the date such permit revision takes effect;
- (B) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget source, or the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source, shall also apply to the owner or operator of such source; and
- (C) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget unit, or the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit, shall also apply to the owner or operator of such unit.

(9) Effect on other authorities. No provision of the CO<sub>2</sub> Budget Trading Program, a CO<sub>2</sub> budget permit application, or a CO<sub>2</sub> budget permit, shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source from compliance with the provision of any other applicable state or federal law or regulation.

(10) Computation of time. The owner or operator of a CO<sub>2</sub> budget source shall be subject to the following computation of time requirements:

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- (A) Unless otherwise stated, any time period scheduled, under the CO<sub>2</sub> Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs;
- (B) Unless otherwise stated, any time period scheduled, under the CO<sub>2</sub> Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs; and
- (C) Unless otherwise stated, if the final day of any time period, under the CO<sub>2</sub> Budget Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.
- (11) Copies of documents incorporated by reference into this section are available by contacting:

Connecticut Department of Environmental Protection  
 Bureau of Air Management  
 79 Elm Street  
 Hartford, Connecticut 06106  
 (860) 424-3027

**Table 31-1**  
**Incorporated Reference Material**

<b>Citation</b>	<b>Title or Subject</b>	<b>Date on Document</b>
40 CFR 75 including Appendices A, B, D & E	Part 75-Continuous Emission Monitoring, Appendix A Specification and Test Procedures, Appendix B Quality Assurance and Quality Control Procedures Appendix D Optional SO <sub>2</sub> Emissions Data Protocol For Gas-Fired and Oil-Fired Units Appendix E Optional NO <sub>x</sub> Emissions Estimation Protocol For Gas-Fired Peaking Units and Oil-Fired Peaking Units.	7-1-03 Edition
40 CFR 60, subpart Cc and subpart WWW	Subpart Cc – Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills Subpart WWW - Standards of Performance for Municipal Solid Waste landfills	7-1-03 Edition
	California Climate Action Registry	
CEI/IEC 1634	International Electrotechnical Commission (IEC) 1634, “High-voltage switchgear and control gear – Use and handling of sulfur hexafluoride (SF <sub>6</sub> ) in high-voltage switchgear and control gear”.	1995-04
TR-113933	Electric Power Research Institute (EPRI), “Practical Guide to SF <sub>6</sub> Handling Practices”.	2002
	Winrock International, <i>A Guide to Monitoring Carbon Storage in Forestry and Agroforestry Projects</i> (Winrock International Institute for Agricultural Development).	1997
ASHRAE Standard	A Method of Testing for Annual Fuel Utilization Efficiency of	1993

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103-1993	Residential Furnaces and Boilers	
10 CFR 430, subpart B, Appendix E	U.S. Department of Energy test procedure	7-1-03 Edition
ANSI/ASHRAE/IESN A Standard 90.1-2004	Energy Standard for Buildings Except Low-Rise Residential Buildings	2004
ANSI/ASHRAE Standard 62.1-2004	Ventilation for Acceptable Indoor Air Quality	2004
Consortium for Energy Efficiency, 2000	“Specification of Energy-Efficient Installation and Maintenance Practices for Residential HVAC Systems,”	2000
<i>Version 1.1</i> , New Buildings Institute, 2005	<i>Energy Benchmark for High Performance Buildings</i> , (EBHPB).	2005
	state building energy codes	
	Federal Energy Management Program (FEMP) Product Energy Efficiency Recommendations, issued pursuant to Executive Orders 13123 and 13221	
	Energy Star criteria issued jointly by the U.S. Environmental Protection Agency and U.S. Department of Energy	
ANSI/ASHRAE/IESN A Standard 90.1-2004	Energy Standard for Buildings Except Low-Rise Residential Buildings	2004
	Residential buildings shall exceed the energy performance requirements of the 2004 International Energy Conservation Code	2004
	Applicable guidance in Appendix 1. “guidance issued by the commissioner”	

(12) **Duty to Comply.** An owner or operator of a CO<sub>2</sub> budget source subject to the requirements of this section shall comply with the requirements of this section.

**(c) CO<sub>2</sub> Authorized Account Representative for CO<sub>2</sub> Budget Sources**

(1) With respect to the CO<sub>2</sub> authorized account representative, the owner or operator of each CO<sub>2</sub> budget source subject to this section shall comply with following:

- (A) Except as provided under subdivision (3)(B) of this subsection, each CO<sub>2</sub> budget source, including all CO<sub>2</sub> budget units at the source, shall have only one CO<sub>2</sub> authorized account representative, with regard to all matters under the CO<sub>2</sub> Budget Trading Program concerning such source;
- (B) The CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source shall be selected by an agreement binding on the owners or operators of the source;
- (C) Upon receipt by the commissioner of a complete account certificate of representation under subsection (c)(4) of this section, the CO<sub>2</sub> authorized account representative of the source shall represent and, by such representations, actions, inactions, or submissions, legally bind each owner or operator of the CO<sub>2</sub> budget source represented and each CO<sub>2</sub> budget unit at the source in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement

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between the CO<sub>2</sub> authorized account representative and such owners or operators. The owners or operators shall be bound by any decision or order issued to the CO<sub>2</sub> authorized account representative by the commissioner or a court regarding the source;

- (D) No permit or modification thereto shall be issued under section 22a-174-33 of the Regulations of Connecticut State Agencies, and no CO<sub>2</sub> Allowance Tracking System account shall be established for a CO<sub>2</sub> budget unit at a source, until the commissioner has received a complete account certificate of representation under subsection (c)(4) of this section for a CO<sub>2</sub> authorized account representative; and
  - (E) Each submission under the CO<sub>2</sub> Budget Trading Program shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative for each CO<sub>2</sub> budget source on behalf of which the submission is made, and shall:
    - (i) Include the following certification statement by the CO<sub>2</sub> authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget sources for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."; and
    - (ii) Be made, signed and certified in accordance with subsection (e)(1) of this section. Otherwise the commissioner shall not accept or act on a submission made on behalf of owners or operators of a CO<sub>2</sub> budget source.
- (2) With respect to the alternate CO<sub>2</sub> authorized account representative, the owner or operator of each CO<sub>2</sub> budget source subject to this section shall comply with the following:
- (A) An account certificate of representation may designate one and only one alternate CO<sub>2</sub> authorized account representative who may act on behalf of the CO<sub>2</sub> authorized account representative. The agreement by which the alternate CO<sub>2</sub> authorized account representative is selected shall include a procedure for authorizing the alternate CO<sub>2</sub> authorized account representative to act in lieu of the CO<sub>2</sub> authorized account representative;

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- (B) Upon receipt by the commissioner of a complete account certificate of representation under subsection (c)(4) of this section, any representation, action, inaction, or submission by the alternate CO<sub>2</sub> authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> authorized account representative; and
  - (C) Except in this section and subsections (c)(1)(A), (c)(3), (c)(4), and (g)(2) of this section, wherever the term "CO<sub>2</sub> authorized account representative" is used such term shall be construed to include the alternate CO<sub>2</sub> authorized account representative.
- (3) Transfers and Name Changes. With respect to changing the CO<sub>2</sub> authorized account representative and the alternate CO<sub>2</sub> authorized account representative or a change in ownership or operation of a CO<sub>2</sub> budget source, the owner or operator of each CO<sub>2</sub> budget source shall comply with following requirements:
- (A) Changing the CO<sub>2</sub> authorized account representative. The CO<sub>2</sub> authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (1)(C) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation shall be binding on the new CO<sub>2</sub> authorized account representative and the owner or operator of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source;
  - (B) Changing the alternate CO<sub>2</sub> authorized account representative. The alternate CO<sub>2</sub> authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (2)(B) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CO<sub>2</sub> authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation shall be binding on the new alternate CO<sub>2</sub> authorized account representative and the owner or operator of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source;
  - (C) Changes in the owners and operators. With respect to a change in ownership or control of the CO<sub>2</sub> budget source, the owner or operator of each CO<sub>2</sub> budget source shall comply with the following requirements:
    - (i) In the event a new owner or operator of a CO<sub>2</sub> budget source is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the

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representations, actions, inactions, and submissions of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative of the source, and the decisions, orders, actions, and inactions of the commissioner, as if the new owner or operator were included in such list;

- (ii) Within thirty (30) days following any change in the owner or operator of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit, including the addition of a new owner or operator, the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include such change; and
- (iii) Any transfer of a Title V permit implementing the provisions of this section shall be in accordance with section 22a-60 of the Connecticut General Statutes. No owner or operator shall act or purport to act under the authority of such Title V permit unless such permit has been transferred in accordance with section 22a-60 of the Connecticut General Statutes.

(4) Account certificate of representation. With respect to an account certificate of representation, the owner or operator of each CO<sub>2</sub> budget source shall comply with the following:

- (A) A complete account certificate of representation for a CO<sub>2</sub> authorized account representative or an alternate CO<sub>2</sub> authorized account representative shall include the following elements in a format prescribed by the commissioner:
  - (i) Identification of the CO<sub>2</sub> budget source for which the account certificate of representation is submitted;
  - (ii) The name, address, electronic mail address, telephone number, and facsimile transmission number of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative;
  - (iii) A list of the owners and operators of the CO<sub>2</sub> budget source;
  - (iv) The following certification statement by the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative:

“I certify that I was selected as the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as applicable, by an agreement binding on the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget source at the source. I certify that I have all the necessary authority to carry out my duties

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and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of the owners and operators of the CO<sub>2</sub> Budget source and that each such owner and operator shall be fully bound by my representations, actions, inactions or submissions and by any decision or order issued to me by the commissioner or a court regarding the source.”; and

- (v) The signature of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative and the dates signed; and
  - (B) Unless otherwise required by the commissioner, documents of agreement referred to in the account certificate of representation shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (5) Objections to the CO<sub>2</sub> authorized account representative.
- (A) Once a complete account certificate of representation under subsection (c)(4) of this section has been submitted and received, the commissioner shall rely on the account certificate of representation unless and until the commissioner receives a superseding complete account certificate of representation under subsection (c)(4) of this section;
  - (B) Except as provided in subdivision (3)(A) or (B) of this subsection, no objection or other communication submitted to the commissioner concerning the authorization, or any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or the finality of any decision or order by the commissioner under the CO<sub>2</sub> Budget Trading Program; and
  - (C) The commissioner shall not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CO<sub>2</sub> authorized account representative, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.
- (6) Delegation by CO<sub>2</sub> authorized account representative and alternate CO<sub>2</sub> authorized account representative.
- (A) A CO<sub>2</sub> authorized account representative may delegate, to one or more individuals, such representative’s authority to make an electronic submission to the commissioner under this section.
  - (B) An alternate CO<sub>2</sub> authorized account representative may delegate, to one or more individuals, such representative’s authority to make an electronic submission to the commissioner under this section.

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- (C) In order to delegate authority to make an electronic submission to the commissioner in accordance with subparagraph (A) and (B) of this subdivision, the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as appropriate, must submit to the commissioner a notice of delegation, in a format prescribed by the commissioner that includes the following elements:
- (i) The name, address, electronic mail address, telephone number, and facsimile transmission number of such CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative;
  - (ii) The name, address, electronic mail address, telephone number and facsimile transmission number of each such individual, herein referred to as the “electronic submission agent”; and
  - (iii) For each individual, a list of the type of electronic submissions under subdivision (A) or (B) of this section for which authority is delegated to him or her.
- (D) A notice of delegation submitted under subsection (c)(6)(C) of this section shall also include the following certification statements by such CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative:
- (i) “I agree that any electronic submission to the commissioner that is by the individual identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies shall be deemed to be an electronic submission by me.”
  - (ii) “Until this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies, I agree to maintain an e-mail account and to notify the commissioner immediately of any change in my e-mail address unless all delegation authority by me under section 22a-174-31(c)(6) of the Regulations of Connecticut State Agencies is terminated.”
- (E) A notice of delegation submitted under subsection (c)(6)(C) of this section shall be effective, with regard to the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative identified in such notice, upon receipt of such notice by the commissioner and until receipt by the commissioner of a superseding notice of delegation by such CO<sub>2</sub> authorized account representative

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or alternate CO<sub>2</sub> authorized account representative as appropriate. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

- (F) Any electronic submission covered by the certification in subsection (c)(6)(D)(i) of this section and made in accordance with a notice of delegation effective under subsection (c)(6)(E) of this section shall be deemed to be an electronic submission by the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative submitting such notice of delegation.

**(d) Permit Requirements and Application.** The owner or operator of each CO<sub>2</sub> budget source shall comply with the following Title V permit requirements:

(1) General CO<sub>2</sub> budget permit requirements.

- (A) The owner or operator of each CO<sub>2</sub> budget source shall apply for and obtain a Title V permit issued by the commissioner pursuant to section 22a-174-33 of the Regulations of Connecticut State Agencies; and
- (B) Each such permit shall contain all applicable CO<sub>2</sub> Budget Trading Program requirements and shall be a complete and distinguishable portion of the permit under subdivision (a) of this section.

(2) Submission of CO<sub>2</sub> budget permit applications. For any CO<sub>2</sub> budget source, the CO<sub>2</sub> authorized account representative shall submit a complete Title V permit application under subsection (d)(3) of this section covering such CO<sub>2</sub> budget source to the commissioner by the later of January 1, 2009 or twelve (12) months before the date on which the CO<sub>2</sub> budget source commences operation.

(3) Information requirements for CO<sub>2</sub> budget permit applications. A complete Title V permit application or application to modify an existing Title V permit shall include the following elements concerning the CO<sub>2</sub> budget source:

- (A) Identification of the CO<sub>2</sub> budget source, including plant name and the Office of Regulatory Information Systems or facility code assigned to the source by the Energy Information Administration of the United States Commissioner of Energy, if applicable;
- (B) The identification of each CO<sub>2</sub> budget source at the CO<sub>2</sub> budget source; and
- (C) All other information required by subsection (b)(7) of this section.

**DRAFT Do not cite or quote****(e) Compliance Certification**

(1) Compliance certification report. The owner or operator of each CO<sub>2</sub> budget source shall comply with the following compliance certification report requirements:

- (A) Applicability and deadline. For each control period in which a CO<sub>2</sub> budget source is subject to the CO<sub>2</sub> budget emissions limitation, the CO<sub>2</sub> authorized account representative of the source shall submit to the commissioner by the March 1 following the relevant control period, a compliance certification report;
- (B) Contents of report. The CO<sub>2</sub> authorized account representative shall include in the compliance certification report required under subparagraph (A) of this subdivision the following elements, in a format prescribed by the commissioner:
  - (i) Identification of the source and each CO<sub>2</sub> budget source at the source;
  - (ii) At the CO<sub>2</sub> authorized account representative's option, the serial numbers of the CO<sub>2</sub> allowances that are to be deducted from the source's compliance account under subsection (g)(5) of this section for the control period; and
  - (iii) The compliance certification under subparagraph (C) of this subdivision; and
- (C) Compliance certification. In the compliance certification report required under subparagraph (A) of this subdivision, the CO<sub>2</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO<sub>2</sub> budget sources in compliance with the CO<sub>2</sub> Budget Trading Program, whether the source and each CO<sub>2</sub> budget source for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the CO<sub>2</sub> Budget Trading Program, including:
  - (i) Whether the source was operated in compliance with the CO<sub>2</sub> budget emissions limitation;
  - (ii) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute CO<sub>2</sub> emissions to the unit, in accordance with subsection (i) of this section;
  - (iii) Whether all the CO<sub>2</sub> emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subsection

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- (i) of this section. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made;
- (iv) Whether the facts that form the basis for certification under subsection (i) of this section of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under subsection (i) of this section, if any, has changed; and
- (v) If a change is required to be reported under subsection (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.
- (2) Commissioner's action on compliance certifications.
- (A) The commissioner may review and conduct independent audits concerning any compliance certification or any other submission under the CO<sub>2</sub> Budget Trading Program. The owner or operator shall not be liable for failing to submit any compliance certification unless the commissioner notifies the owner or operator in writing within sixty (60) days of receipt of the compliance certification that the certification fails to meet the requirements of this section or that additional information is necessary to meet the requirements of this section.
- (B) The commissioner may deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as approved during the commissioner's review under subparagraph (A) of this subdivision.
- (f) CO<sub>2</sub> Allowance Allocations**
- (1) The Connecticut CO<sub>2</sub> trading program base budget is as follows:
- (A) For the 2009 through 2014 allocation years, the Connecticut CO<sub>2</sub> trading program base budget is 10,695,036 tons;
- (B) For the 2015 allocation year, the Connecticut CO<sub>2</sub> trading program base budget is 10,427,660 tons;
- (C) For the 2016 allocation year, the Connecticut CO<sub>2</sub> trading program base budget is 10,160,284 tons;

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- (D) For the 2017 allocation year, the Connecticut CO<sub>2</sub> trading program base budget is 9,892,908 tons; and
  - (E) For the 2018 allocation year and each succeeding allocation year, the Connecticut CO<sub>2</sub> trading program base budget is 9,625,532 tons.
- (2) Timing requirements for CO<sub>2</sub> allowance allocations.
- (A) By January 1, 2009, the commissioner will determine the CO<sub>2</sub> allowance allocations, in accordance with subdivision (3) of this subsection, for the 2009, 2010, 2011, and 2012 allocation years.
  - (B) By January 1, 2010 and January 1 of each year thereafter, the commissioner will allocate CO<sub>2</sub> allowances, in accordance with subdivision (3) of this subsection, for the allocation year that commences three years after such applicable deadline for allocation. If the commissioner fails to allocate CO<sub>2</sub> allowances in a timely manner, the commissioner will, for the applicable allocation year, repeat the CO<sub>2</sub> allowance allocations that were performed for the preceding allocation year.
- (3) CO<sub>2</sub> allowance allocations.
- (A) For purposes of this subdivision, “auction” means the open and transparent process by which the commissioner or a trustee selected by the commissioner shall offer for sale and sell the allowances in the consumer benefit account each year
  - (B) The commissioner shall establish a consumer benefit and strategic energy purpose account in order to promote or reward investments in energy efficiency, renewable or non-carbon emitting technologies or innovative greenhouse gas emissions abatement technologies. Before October 1 of each allocation year, the commissioner shall allocate the number of allowances to the consumer benefit account determined in accordance with subparagraph (C) of this subdivision and subdivision (4) of this subsection;
  - (C) Consumer benefit or strategic energy purpose allocation. After deducting the amount of allowances in accordance with the provisions of subdivisions (4) and (5) of this subsection, the commissioner shall, by no later than the end of the second compliance period, allocate up to one hundred percent of the remaining Connecticut CO<sub>2</sub> trading program base budget to the consumer benefit account established under subparagraph (B) of this subdivision.
  - (D) By October 1 of each allocation year, the commissioner or a trustee selected by the commissioner shall auction the allowances held in the consumer benefit account and use the proceeds from such auction to promote the purposes of the consumer benefit and strategic energy purpose account.

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(4) **Mandatory Retirement of Allowances for Voluntary Renewable Energy Market.** The commissioner shall retire allowances equivalent to documented voluntary renewable energy purchases by customers in Connecticut that represent renewable energy generated from within any participating state. Any retirement shall be determined as follows:

- (A) Any person may submit data to the commissioner documenting purchases of voluntary renewable energy that meet the requirements of this subdivision by no later than the July 30 prior to the beginning of a control period. Such data must be from reputable sources, which may include retail electricity providers, organizations that certify renewable energy products, and other parties as determined by the commissioner. Such data shall verify such voluntary renewable energy purchase and shall provide:
  - (i) Documentation of voluntary renewable energy or renewable energy attribute credit purchases by retail customers, by customer class, in Connecticut during the most recent three-year period for which data is available;
  - (ii) Documentation that the retail provider procured the renewable energy or renewable energy attributes related to voluntary renewable energy or renewable energy attribute credit;
  - (iii) The time period when the retail purchase(s) was made;
  - (iv) The state where the electricity was generated or the renewable energy attribute credit was created, including documentation of facility name, unique generator identification number and fuel type;
  - (v) Any additional information required by the commissioner necessary to demonstrate that such renewable energy purchase or other documentation representing renewable energy attributes is not being credited in more than one participating state; and
  - (vi) The time period when the electricity was generated or the renewable energy attribute credit was created.
  
- (B) Subject to the timely receipt of adequate data pursuant to subparagraph (B) of this subdivision, and based on such data, the commissioner shall project the voluntary renewable energy purchases in Connecticut during a control period that represents renewable energy generated from within a participating state. The megawatt-hours (MWh) of projected sales of projected voluntary renewable energy purchases in a control period shall be multiplied by the marginal CO<sub>2</sub> emissions rate (lbs. CO<sub>2</sub>/MWh) in the control area where the generation occurred, as

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determined by the commissioner. If data to provide the marginal emissions rate is unavailable, the commissioner shall determine the average emissions rate.

- (C) The commissioner shall establish a Voluntary Renewable Energy Market Retirement account; calculate allowances relative to renewable energy purchases pursuant to this subparagraph; and place the appropriate number of CO<sub>2</sub> allowances into such retirement account. The allowances to be placed in this account shall be determined as follows:

$$\text{CO}_2 \text{ tons} = \text{MP} \times \text{EF}$$

Where:

“CO<sub>2</sub> tons” is the number of allowances to be placed in the reserve account rounded down to the nearest whole ton.

“MP” is the projected MWh of voluntary renewable energy purchases in the State during the future control period that meets the requirements of this subdivision.

“EF” is the CO<sub>2</sub> emissions factor for the control area where the electricity represented by the sale was generated.

- (D) CO<sub>2</sub> allowances shall be held in the reserve account until the commissioner determines the actual MWh of voluntary renewable energy purchases that occurred during the control period. CO<sub>2</sub> allowances in the account shall be retired in an amount up to the number of tons of CO<sub>2</sub> represented by actual voluntary renewable energy purchases, based on actual MWh purchases and the emissions factor determined pursuant to subparagraph (B) of this subdivision.
- (E) If the CO<sub>2</sub> allowances placed in the voluntary renewable energy market reserve account are less than the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary renewable energy purchases during the control period, the commissioner shall add the difference between actual sales and CO<sub>2</sub> allowances held in the reserve account to the projection for the following control period, pursuant to subparagraph (C) of this subdivision. If the CO<sub>2</sub> allowances placed in the Voluntary Renewable Energy Market Retirement account are greater than the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary renewable energy purchases during the control period, the commissioner shall subtract the difference between actual sales and CO<sub>2</sub> allowances held in such account from the projection for the following control period, determined pursuant to subparagraph (C) of this subdivision.
- (5) The commissioner may set aside a portion of the Connecticut CO<sub>2</sub> trading program base budget to directly support highly energy efficient power generation, any other strategic energy purpose set forth in the Regional Greenhouse Gas Initiation Memorandum of Understanding or

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the voluntary renewable energy provisions set forth in the Regional Greenhouse Gas Initiative model rule.

(6) Early reduction CO<sub>2</sub> allowances. The commissioner may award early reduction CO<sub>2</sub> allowances to a CO<sub>2</sub> budget source for reductions in the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions, including all emissions from CO<sub>2</sub> budget sources at the CO<sub>2</sub> budget source, that are achieved by the source during the early reduction period of 2006, 2007 and 2008, subject to the following requirements:

- (A) The owner or operator of the CO<sub>2</sub> budget source shall submit its application for the award of CO<sub>2</sub> allowances by May 1, 2009.
- (B) The owner or operator of the CO<sub>2</sub> budget source shall demonstrate that all CO<sub>2</sub> budget units that existed at the source during the baseline period of 2003, 2004 and 2005 are included as CO<sub>2</sub> budget units for the early reduction period. New CO<sub>2</sub> budget units added at the CO<sub>2</sub> Budget source must also be accounted for during the early reduction period.
- (C) The owner or operator of the CO<sub>2</sub> budget source shall demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of subsection (i) of this section for each of the baseline years 2003, 2004 and 2005, and the early reduction years 2006, 2007, and 2008, for which the CO<sub>2</sub> budget source was required to report CO<sub>2</sub> data pursuant to 40 CFR 75. An owner or operator of a CO<sub>2</sub> budget source that was not required to submit CO<sub>2</sub> data pursuant to 40 CFR 75 for any of the years contained in the baseline period or early reduction period may request, as part of its application to the commissioner under this subsection, to use an alternative data source or sources for the calculation of early reduction allowances.
- (D) The commissioner shall calculate the number of early reduction CO<sub>2</sub> allowances to be awarded to a particular CO<sub>2</sub> budget source pursuant to the following formula:
  - (i) If total heat input to all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period is less than or equal to the total heat input to all the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period, then:

$$\text{ERAs} = ((\text{AEER}_{\text{BASELINE}} - \text{AEER}_{\text{ERP}}) \times (\text{EO}_{\text{ERP}} + (\text{TO}_{\text{ERP}} / 3.413))) / 2000$$

Where:

“AEER<sub>BASELINE</sub>” is the average CO<sub>2</sub> emissions rate resulting from electric energy output and thermal energy output for all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period (in pounds of CO<sub>2</sub>/MWh<sub>th+e</sub>);

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“ $AEER_{ERP}$ ” is the average CO<sub>2</sub> emissions rate resulting from electric energy output and thermal energy output for all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period (in pounds of CO<sub>2</sub>/ MWh<sub>th+e</sub>);

“ $EO_{ERP}$ ” is the total electric energy output from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period (in MWh<sub>e</sub>);

“ $TO_{ERP}$ ” is the total useful thermal energy output from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period (in MMBtu);

- (ii) For the purposes of this subparagraph, thermal energy output will be converted to units of MWh by the conversion factor 1 MWh = 3.413 MMBtu.
- (iii) For the purposes of this subparagraph, output shall be monitored in accordance with subsection (i) of this section.
- (iv) If total heat input to all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the early reduction period is greater than or equal to the total heat input to all the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period, then:

$$ERAs = E_{BASELINE} - E_{ERP}$$

Where:

“ $E_{BASELINE}$ ” are total CO<sub>2</sub> emissions from the all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during the baseline period (in tons); and

“ $E_{ERP}$ ” are total CO<sub>2</sub> emissions from the all of the CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source during early reduction period (in tons).

- (E) Once the commissioner verifies a CO<sub>2</sub> budget source’s early reductions of CO<sub>2</sub> emissions, the commissioner shall allocate the early reduction CO<sub>2</sub> allowances to the CO<sub>2</sub> budget source’s compliance account by December 31, 2009.

**(g) Allowance Tracking System**

(1) CO<sub>2</sub> Allowance Tracking System accounts.

- (A) Nature and function of compliance accounts. Consistent with subdivision (2)(A) of this subsection, the commissioner shall establish one compliance account for each CO<sub>2</sub> budget source. Allocations of CO<sub>2</sub> allowances pursuant to subsection (f) of this section and deductions or transfers of CO<sub>2</sub> allowances pursuant to

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subsections (e)(2), (g)(5), (g)(7), or (h) of this section will be recorded in the compliance accounts in accordance with this subsection.

- (B) Nature and function of general accounts. Consistent with subdivision (2)(B) of this subsection, the commissioner shall establish, upon request, a general account for any person. Transfers of CO<sub>2</sub> allowances pursuant to subsection (h) of this section will be recorded in the general account in accordance with this subsection.
- (2) Establishment of accounts.
- (A) Compliance accounts. Upon receipt of a complete account certificate of representation under subsection (c)(4) of this section, the commissioner shall establish a compliance account for each CO<sub>2</sub> budget source for which the account certificate of representation was submitted.
  - (B) General accounts. Any person may apply to open a general account for the purpose of holding and transferring CO<sub>2</sub> allowances. Such application shall:
    - (i) Designate only one CO<sub>2</sub> authorized account representative and only one alternate CO<sub>2</sub> authorized account representative who may act on behalf of the CO<sub>2</sub> authorized account representative; and
    - (ii) Include a procedure for authorizing the alternate CO<sub>2</sub> authorized account representative to act in lieu of the CO<sub>2</sub> authorized account representative.
  - (C) A complete application for a general account shall be submitted to the commissioner and shall include the following elements on forms prescribed by the commissioner:
    - (i) Name, address, electronic mail address, telephone number, and facsimile transmission number of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative;
    - (ii) At the option of the CO<sub>2</sub> authorized account representative, organization name and type of organization;
    - (iii) A list of all persons subject to a binding agreement for the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative to represent their ownership interest with respect to the CO<sub>2</sub> allowances held in the general account;
    - (iv) The following certification statement by the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative: "I certify that I was selected as the CO<sub>2</sub> authorized account representative or the CO<sub>2</sub> alternate authorized account representative, as applicable, by an

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agreement that is binding on all persons who have an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the commissioner or a court regarding the general account.";

- (v) The signature of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative and the dates signed; and
  - (vi) Unless otherwise required by the commissioner, documents of agreement referred to in the application for a general account shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (D) Authorization of CO<sub>2</sub> authorized account representative. Upon receipt by the commissioner of a complete application for a general account under subparagraph (C) of this subdivision:
- (i) The commissioner shall establish a general account for the person or persons for whom the application is submitted;
  - (ii) The CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative for the general account shall represent and, by such representations, actions, inactions or submissions, legally bind each person who has an ownership interest with respect to CO<sub>2</sub> allowances held in the general account in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative by the commissioner or a court regarding the general account; and
  - (iii) Any representation, action, inaction or submission by any alternate CO<sub>2</sub> authorized account representative shall be deemed to be a representation, action, inaction or submission by the CO<sub>2</sub> authorized account representative.
- (E) Each submission concerning the general account shall be submitted, signed and certified by the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative for the persons having an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CO<sub>2</sub>

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authorized account representative or any alternate CO<sub>2</sub> authorized account representative:

"I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

- (F) The commissioner shall accept or act on a submission concerning the general account only if the submission has been made, signed and certified in accordance with subparagraph (E) of this subdivision.
- (G) Changing CO<sub>2</sub> authorized account representative and alternate CO<sub>2</sub> authorized account representative; changes in persons with ownership interest.
  - (i) The CO<sub>2</sub> authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous CO<sub>2</sub> authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new CO<sub>2</sub> authorized account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.
  - (ii) The alternate CO<sub>2</sub> authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous alternate CO<sub>2</sub> authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new alternate CO<sub>2</sub> authorized account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.

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- (H) In the event a new person having an ownership interest:
- (i) With respect to CO<sub>2</sub> allowances in the general account is not included in the list of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions and submissions of the CO<sub>2</sub> authorized account representative and any alternate CO<sub>2</sub> authorized account representative of the source, and the decisions, orders, actions and inactions of the commissioner, as if the new individual were included in such list; and
  - (ii) Within 30 days following any change in the persons having an ownership interest with respect to CO<sub>2</sub> allowances in the general account, including the addition of persons, the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO<sub>2</sub> allowances in the general account to include the change.
- (I) Objections concerning CO<sub>2</sub> authorized account representative.
- (i) Once a complete application for a general account under subparagraph (B) of this subdivision has been submitted and received, the commissioner shall rely on such application unless and until the commissioner receives a superseding complete application for a general account under subparagraph (B) of this subdivision.
  - (ii) Except as provided in subparagraphs (G)(i) and (ii) of this subdivision, no objection or other communication submitted to the commissioner concerning the authorization, or any representation, action, inaction or submission of the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative for a general account shall affect any representation, action, inaction or submission of the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative or the finality of any decision or order by the commissioner under the CO<sub>2</sub> Budget Trading Program.
- (J) The commissioner shall not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction or submission of the CO<sub>2</sub> authorized account representative or any alternate CO<sub>2</sub> authorized account representative for a general account, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

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- (K) Account identification. The commissioner shall assign a unique identifying number to each account established under subparagraph (A) or (B) of this subdivision.
- (3) CO<sub>2</sub> Allowance Tracking System responsibilities of CO<sub>2</sub> authorized account representative. Following the establishment of a CO<sub>2</sub> Allowance Tracking System account, all submissions to the commissioner pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CO<sub>2</sub> allowances in the account, shall be made only by the CO<sub>2</sub> authorized account representative for the account.
- (4) Recordation of CO<sub>2</sub> allowance allocations. **May need to adjust depending on (f)**
- (A) By January 1, 2009, the commissioner shall record the CO<sub>2</sub> allowances for the allocation years of 2009, 2010, 2011, and 2012 in each CO<sub>2</sub> budget source's compliance account the CO<sub>2</sub> allowances allocated for CO<sub>2</sub> budget sources at the source, and in the consumer benefit account as allocated under **subsection (f)** of this section.
- (B) Each year the commissioner shall record CO<sub>2</sub> allowances, as allocated to the source under **subsection (f)** of this section, in the compliance account for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to the compliance account. Each year, the commissioner shall also record CO<sub>2</sub> allowances, as allocated under **subsection (f)** of this section, in the allocation set-aside for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to an allocation set-aside.
- (C) Serial numbers for allocated CO<sub>2</sub> allowances. When allocating CO<sub>2</sub> allowances to and recording them in an account, the commissioner shall assign each CO<sub>2</sub> allowance a unique identification number that will include digits identifying the year for which the CO<sub>2</sub> allowance is allocated.
- (5) Compliance.
- (A) Allowances available for compliance deduction. CO<sub>2</sub> allowances that meet the following criteria are available to be deducted for compliance with a CO<sub>2</sub> budget source's CO<sub>2</sub> budget emissions limitation for a control period.
- (i) The CO<sub>2</sub> allowances are of allocation years that fall within a prior control period or the same control period; and
- (ii) The CO<sub>2</sub> allowances are held in the CO<sub>2</sub> budget source's compliance account as of the CO<sub>2</sub> allowance transfer deadline for that control period or are transferred into the compliance account by a CO<sub>2</sub> allowance transfer correctly submitted for recordation under subsection (h)(1) of this section by the CO<sub>2</sub> allowance transfer deadline for that control period.

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- (B) For CO<sub>2</sub> offset allowances, the number of CO<sub>2</sub> offset allowances that may be deducted can be no more than the number of tons representing the following percentages of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for that control period as determined in accordance with subsection (i) of this section:
- (i) Unless the provisions of subparagraphs (B)(ii) or (iii) of this subdivision apply, 3.3 percent;
  - (ii) If the commissioner determines that there has been a Stage One Trigger Event, 5 percent; or
  - (iii) If the commissioner determines that there have been at least two Stage Two Trigger Events in immediate succession; 5 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for the first three years of the control period, and 20 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for each year after the third year of the control period.
- (C) The CO<sub>2</sub> allowances are not necessary for deductions for excess emissions for a prior control period under subsection (d) of this section.
- (D) Deductions for compliance. Following the recordation, in accordance with subsection (h)(2) of this section, of CO<sub>2</sub> allowance transfers submitted for recordation in the CO<sub>2</sub> budget source's compliance account by the CO<sub>2</sub> allowance transfer deadline for a control period, the commissioner shall deduct CO<sub>2</sub> allowances available under subparagraph (A) of this subdivision to cover the source's CO<sub>2</sub> emissions, as determined in accordance with subsection (i) of this section, for the control period, as follows:
- (i) Until the amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions, determined in accordance with subsection (i) of this section, from all CO<sub>2</sub> budget sources at the CO<sub>2</sub> budget source for the control period; or
  - (ii) If there are insufficient CO<sub>2</sub> allowances to complete the deductions in subparagraph (B)(i) of this subdivision, until no more CO<sub>2</sub> allowances available under subparagraph (A) of this subdivision remain in the compliance account.
- (E) Identification of CO<sub>2</sub> allowances by serial number. The CO<sub>2</sub> authorized account representative for a source's compliance account may request that specific CO<sub>2</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subparagraph (B), or (D) of this subdivision. Such identification shall be made in

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the compliance certification report submitted in accordance with subsection (e)(1) of this section.

- (F) The commissioner shall deduct CO<sub>2</sub> allowances for a control period from the CO<sub>2</sub> budget source's compliance account, in the absence of an identification or in the case of a partial identification of CO<sub>2</sub> allowances by serial number under subparagraph (E) of this subdivision, in the following descending order:
- (i) Any CO<sub>2</sub> allowances, other than CO<sub>2</sub> offset allowances, that are available for deduction under subdivision (a) of this section and were allocated to the units at the source, in the order of recordation; and then
  - (ii) Any CO<sub>2</sub> allowances, other than CO<sub>2</sub> offset allowances, that are available for deduction under subdivision (a) of this section and were allocated other than to units at the source and transferred and recorded in the compliance account pursuant to subsection (h), in the order of recordation; and
  - (iii) Subject to the relevant compliance deduction limitations under subsection (g)(5) of this section, any CO<sub>2</sub> allowances that were awarded as CO<sub>2</sub> offset allowances and transferred and recorded in the compliance account pursuant to subsection (h) of this section, in order of recordation.
- (G) Deductions for excess emissions. After making the deductions for compliance under subparagraph (D) of this subdivision, the commissioner shall deduct from the CO<sub>2</sub> budget source's compliance account a number of CO<sub>2</sub> allowances, allocated for allocation years that occur after the control period in which the source has excess emissions, equal to three times the number of the source's excess emissions. No CO<sub>2</sub> offset allowances shall be deducted to account for the source's excess emissions. Any such CO<sub>2</sub> allowance deduction shall not affect the liability of the owners and operators of the CO<sub>2</sub> budget source or the CO<sub>2</sub> budget sources at the source for any fine, penalty or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under applicable state law. When assessing fines, penalties or other obligations, the commissioner shall:
- (i) When determining the number of days of violation if a CO<sub>2</sub> budget source has excess emissions for a control period, consider each day in the control period a day in violation unless the owner or operator of the source demonstrate that a lesser number of days should be considered; and
  - (ii) Consider each ton of excess emissions is a separate violation.
- (H) The commissioner's determination that a CO<sub>2</sub> budget source had excess emissions and the associated deduction of CO<sub>2</sub> allowances from such CO<sub>2</sub> budget source's

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account may be later challenged in an administrative enforcement or any civil or criminal judicial action arising from or encompassing such noncompliance. The commencement or pendency of any administrative enforcement or civil or criminal judicial action arising from or encompassing that excess emissions violation will not act to prevent the commissioner from initially deducting the CO<sub>2</sub> allowances resulting from the commissioner's original determination that the relevant CO<sub>2</sub> budget source has had excess emissions. Should the commissioner's determination of the existence or extent of the CO<sub>2</sub> budget source's excess emissions be revised, either by a settlement or final conclusion of any administrative or judicial action, the commissioner shall:

- (i) Take further action under subparagraph (G)(i) and (ii) of this subdivision to address the expanded violation where the commissioner's determination of the extent of excess emissions was too low; and
  - (ii) In any instance where the commissioner's determination of the extent of excess emissions was too high, distribute to the relevant CO<sub>2</sub> budget source a number of CO<sub>2</sub> allowances equaling the number of CO<sub>2</sub> allowances deducted that are attributable to the difference between the original and final quantity of excess emissions. Should such CO<sub>2</sub> budget source's compliance account no longer exist, the CO<sub>2</sub> allowances will be provided to a general account selected by the owner or operator of the CO<sub>2</sub> budget source from which they were originally deducted.
- (I) The commissioner shall record in the appropriate compliance account all deductions from such an account pursuant to subparagraphs (D) and (G) of this subdivision.
  - (J) Action by the commissioner on submissions. The commissioner may review and conduct independent audits concerning any submission under the CO<sub>2</sub> Budget Trading Program and make appropriate adjustments of the information in the submissions, including but not limited to, deductions of CO<sub>2</sub> allowances from or transfer of CO<sub>2</sub> allowances to a source's compliance account based on information in the submissions, as adjusted under subparagraph (H)(i) of this subdivision.
- (6) Banking. Each CO<sub>2</sub> allowance that is held in a compliance account or a general account will remain in such account unless and until the CO<sub>2</sub> allowance is deducted or transferred under this subsection, subsection (e)(2), (g)(5), (g)(7), or (h) of this section.
- (7) Account error. The commissioner may correct any error in any CO<sub>2</sub> Allowance Tracking System account. Within ten (10) business days of making such correction, the commissioner shall notify the CO<sub>2</sub> authorized account representative for the account.

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(8) Closing of general accounts. The commissioner may close a general account for one of the following reasons:

- (A) A CO<sub>2</sub> authorized account representative of a general account may instruct the commissioner to close the account by submitting a statement requesting deletion of the account from the CO<sub>2</sub> Allowance Tracking System and by correctly submitting for recordation under subsection (h)(1) of this section a CO<sub>2</sub> allowance transfer of all CO<sub>2</sub> allowances in the account to one or more other CO<sub>2</sub> Allowance Tracking System accounts.
- (B) If a general account shows no activity for a period of six years or more and does not contain any CO<sub>2</sub> allowances, the commissioner may notify the CO<sub>2</sub> authorized account representative for the account that the account will be closed and deleted from the CO<sub>2</sub> Allowance Tracking System following twenty business days after the notice is sent. The account will be closed after the twenty day period unless before the end of such twenty day period the commissioner receives a correctly submitted transfer of CO<sub>2</sub> allowances into the account under section subsection (h)(1) of this section or a statement submitted by the CO<sub>2</sub> authorized account representative demonstrating to the satisfaction of the commissioner good cause as to why the account should not be closed.

**(h) CO<sub>2</sub> Allowance Transfers**

(1) Submission of CO<sub>2</sub> allowance transfers. The CO<sub>2</sub> authorized account representatives seeking recordation of a CO<sub>2</sub> allowance transfer shall submit the transfer to the commissioner. The CO<sub>2</sub> allowance transfer shall include the following information:

- (A) The numbers identifying both the transferor and transferee accounts;
  - (B) A specification by serial number of each CO<sub>2</sub> allowance to be transferred; and
  - (C) The printed name and signature of the CO<sub>2</sub> authorized account representative of the transferor account and the date signed.
- (2) Recordation.
- (A) Within five business days of receiving a CO<sub>2</sub> allowance transfer, except as provided in subparagraph (B) of this subdivision, the commissioner shall record a CO<sub>2</sub> allowance transfer by moving each CO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request, provided that:
    - (i) The transfer is correctly submitted under subdivision (1) of this subsection; and

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- (ii) The transferor account includes each CO<sub>2</sub> allowance identified by serial number in the transfer.
  - (B) A CO<sub>2</sub> allowance transfer that is submitted for recordation following the CO<sub>2</sub> allowance transfer deadline and that includes any CO<sub>2</sub> allowances that are of allocation years that fall within a control period prior to or the same as the control period to which the CO<sub>2</sub> allowance transfer deadline applies will not be recorded until after completion of the process of recordation of CO<sub>2</sub> allowance allocations in subsection (g)(4)(B) of this section.
  - (C) Where a CO<sub>2</sub> allowance transfer submitted for recordation fails to meet the requirements of subparagraph (A) of this subdivision, the commissioner shall not record such transfer.
- (3) Notification.
- (A) Notification of recordation. Within 5 business days of recordation of a CO<sub>2</sub> allowance transfer under subdivision (2) of this subsection, the commissioner shall notify each party to the transfer. Notice will be given to the CO<sub>2</sub> authorized account representatives of both the transferor and transferee accounts.
  - (B) Notification of non-recordation. Within ten business days of receipt of a CO<sub>2</sub> allowance transfer that fails to meet the requirements of subdivision (2)(A) of this subsection, the commissioner shall notify the CO<sub>2</sub> authorized account representatives of both accounts subject to the transfer of:
    - (i) A decision not to record the transfer; and
    - (ii) The reasons for such non-recordation.
  - (C) Nothing in this section shall preclude the submission of a CO<sub>2</sub> allowance transfer for recordation following notification of non-recordation.

**(i) Monitoring and Reporting**

(1) For the purposes of this subsection the definitions in subsection (a) of this section and in 40 CFR 72.2 shall apply. The terms “Administrator”, “affected unit”, and “designated representative” in 40 CFR 75 shall be replaced by the terms “commissioner”, “CO<sub>2</sub> Budget source”, and “CO<sub>2</sub> authorized account representative”, respectively, as defined in subsection (a) of this section. The definition of “continuous emission monitoring system” or “CEMs” in 40 CFR 75 shall be replaced with the definition in subsection (a) of this section.

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(2) The owner or operator and, to the extent applicable, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source shall comply with the monitoring, recordkeeping and reporting requirements as provided in this subsection and all applicable sections of 40 CFR 75.

- (A) Requirements for installation, certification, and data accounting. The owner or operator of each CO<sub>2</sub> budget source shall:
- (i) Install all monitoring systems required under this subsection for monitoring CO<sub>2</sub> mass emissions, including all systems required to monitor CO<sub>2</sub> concentration, stack gas flow rate, O<sub>2</sub> concentration, heat input and fuel flow rate, as applicable, in accordance with 40 CFR 75.13 and 75.72 and Appendix G of 40 CFR 75;
  - (ii) Successfully complete all certification tests required under this subsection and meet all other requirements of this subsection and 40 CFR 75 applicable to the monitoring systems installed under subparagraph (A)(i) of this subdivision; and
  - (iii) Make and keep records, report and quality assure the data from the monitoring systems installed under subparagraph (A)(i) of this subdivision.
- (B) Compliance dates. The owner or operator shall meet the monitoring system certification and other requirements of subparagraphs (A)(i) through (A)(iii) of this subdivision on or before the following dates:
- (i) The owner or operator of a CO<sub>2</sub> budget source that intends to apply for early reduction allowances under subsection (f)(7)(C) of this section must demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of this subsection for all of the early reduction years for which the CO<sub>2</sub> budget source was required to report CO<sub>2</sub> data pursuant to 40 CFR 75. A CO<sub>2</sub> budget source that was not required to submit CO<sub>2</sub> data pursuant to 40 CFR 75 for any of the years contained in the early reduction application may petition the commissioner as part of its application under subsection (f)(7)(C) of this section for the use of alternative data source or sources for the calculation of early reduction allowances;
  - (ii) The owner or operator of a CO<sub>2</sub> budget source, except for a CO<sub>2</sub> budget source under subparagraph (B)(i) of this subdivision, that commences commercial operation before July 1, 2007, must comply with the requirements of this subsection by January 1, 2008; and
  - (iii) The owner or operator of a CO<sub>2</sub> budget source that commences commercial operation on or after July 1, 2007, must comply with the

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requirements of this subsection by the later of January 1, 2008, or one hundred and eighty (180) calendar days after the date on which the source commences commercial operation.

- (C) For the owner or operator of a CO<sub>2</sub> budget source for which construction of a new stack or flue installation is completed after the applicable deadline under subparagraphs (B)(i), (B)(ii) or (B)(iii) of this subdivision by the earlier of:
  - (i) Ninety (90) source operating days after the date on which emissions first exit to the ambient air through the new stack or flue; or
  - (ii) One hundred and eighty (180) calendar days after the date on which emissions first exit to the ambient air through the new stack or flue.
  
- (D) Reporting data.
  - (i) The owner or operator of a CO<sub>2</sub> budget source that misses the certification deadline under subparagraph (B)(i) of this subdivision is not eligible to apply for early reduction allowances. The owner or operator of the source becomes subject to the certification deadline under subparagraph (B)(ii) of this subdivision.
  - (ii) Except as provided in subparagraph (C)(iii) of this subdivision, the owner or operator of a CO<sub>2</sub> budget source that does not meet the applicable compliance date set forth in subparagraphs (B)(ii) and (B)(iii) of this subdivision for any monitoring system under subparagraph (A) of this subdivision shall, for each such monitoring system, determine, record and report maximum potential or, as appropriate, minimum potential, values for CO<sub>2</sub> concentration, CO<sub>2</sub> emission rate, stack gas moisture content, fuel flow rate and any other parameter required to determine CO<sub>2</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3), 40 CFR 75, Appendix section 2.4 or 40 CFR 75 Appendix F section 2.5 as applicable.
  - (iii) The owner or operator of a CO<sub>2</sub> budget source that does not meet the applicable compliance date set forth in subparagraph (C) of this subdivision for any monitoring system under subparagraph (A)(i) of this subdivision shall, for each such monitoring system, determine, record and report substitute data using the applicable missing data procedures in 40 CFR 75, Subpart D, or 40 CFR 75, Appendix D or E, in lieu of the maximum potential or, as appropriate, minimum potential, values for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under subparagraph (C) of this subdivision.

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- (E) Prohibitions. No owner or operator of a CO<sub>2</sub> budget source or a non-CO<sub>2</sub> budget source monitored under 40 CFR 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with subsection (i)(6) of this section.
  - (F) No owner or operator of a CO<sub>2</sub> budget source or a non-CO<sub>2</sub> Budget source monitored under 40 CFR 75.72(b)(2)(ii) shall operate the source so as to discharge, or allow to be discharged, CO<sub>2</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subsection and 40 CFR 75.
  - (G) No owner or operator of a CO<sub>2</sub> Budget source or a non- CO<sub>2</sub> Budget source monitored under 40 CFR 75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording CO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this subsection and 40 CFR 75.
  - (H) No owner or operator of a CO<sub>2</sub> budget source or a non- CO<sub>2</sub> Budget source monitored under 40 CFR 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subsection, except under any one of the following circumstances:
    - (i) The owner or operator is monitoring emissions from the source with another certified monitoring system approved, in accordance with the applicable provisions of this subsection and 40 CFR 75, by the permitting authority for use at that source that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or
    - (ii) The CO<sub>2</sub> authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subdivision (2)(B)(ii) of this subsection.
- (3) Initial certification and recertification procedures.
- (A) The owner or operator of a CO<sub>2</sub> Budget source shall be exempt from the initial certification requirements of this section for a monitoring system under subdivision (2)(A)(i) of this subsection if the following conditions are met:
    - (i) The monitoring system has been previously certified in accordance with 40 CFR 75; and
    - (ii) The applicable quality-assurance and quality-control requirements of 40

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CFR 75.21 and 40 CFR 75 Appendices B, D, and E are fully met for the certified monitoring system described in subdivision (2)(A) of this subsection.

- (B) The following systems are the principal types of continuous emission monitoring systems required under this subsection:
- (i) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour;
  - (ii) A nitrogen oxides emission rate or NO<sub>x</sub>-diluent monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million, diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>; and NO<sub>x</sub> emission rate, in lb/MMBtu;
  - (iii) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2), which provides a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;
  - (iv) A carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and
  - (v) An oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub> in percent O<sub>2</sub>.
- (C) The recertification provisions of this section shall apply to a monitoring system under subdivision (2)(A) of this subsection exempt from initial certification requirements under subparagraph (A) of this subdivision.
- (D) If the Administrator has previously approved a petition under 40 CFR 75.17(a) or (b) for apportioning the CO<sub>2</sub> emission rate measured in a common stack or a petition under 40 CFR 75.66 of this chapter for an alternative requirement in 40 CFR 75.12, 40 CFR 75.17 or 40 CFR 75, Subpart H, the CO<sub>2</sub> authorized account representative shall resubmit the petition to the Administrator under subdivision (7)(A) of this subsection to determine whether the approval applies under this program.

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- (E) Except as provided in subparagraph (A) of this subdivision, the owner or operator of a CO<sub>2</sub> budget source shall comply with the following initial certification and recertification procedures for a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendices D and E, and under subdivision (2)(A)(i) of this subsection. The owner or operator of a source that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E, shall comply with the procedures in subparagraph (A) or (C) of this subdivision.
- (F) Requirements for initial certification. The owner or operator shall ensure that each continuous emissions monitoring system required under subdivision (2)(A)(i) of this subsection completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadlines specified in subdivision (2)(B) and (C) of this subsection. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this subsection in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.
- (G) Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified continuous emission monitoring system under subdivision (2)(A)(i) of this subsection that the Administrator or the permitting authority determines significantly affects the ability of the system to accurately measure or record CO<sub>2</sub> mass emissions or heat input or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification or change to the flue gas handling system or the source's operation that the Administrator or the permitting authority determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to 40 CFR 75.20(b). Examples of changes that require recertification include, but are not limited to: replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.
- (H) Approval process for initial certifications and recertification.
- (i) Notification of certification. The CO<sub>2</sub> authorized account representative shall submit to the commissioner a written notice of the dates of certification in accordance with subdivision (5) of this subsection.
- (ii) Certification application. The CO<sub>2</sub> authorized account representative shall submit to the commissioner a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

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- (iii) Provisional certification data. The provisional certification date for a monitor shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the CO<sub>2</sub> Budget Trading Program for a period not to exceed 120 days after receipt by the commissioner of the complete certification application for the monitoring system or component thereof under subparagraph (H)(ii) of this subdivision. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, will be considered valid quality-assured data, provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the commissioner.
- (I) Certification application approval process. The commissioner shall issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application subparagraph (H)(ii) of this subdivision. In the event the commissioner does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application will be deemed certified for use under the CO<sub>2</sub> Budget Trading Program.
- (i) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the commissioner shall issue a written notice of approval of the certification application within 120 days of receipt of such complete application.
  - (ii) Incomplete application notice. If the certification application is not complete, then the commissioner will issue a written notice of incompleteness and set a reasonable date by which the CO<sub>2</sub> authorized account representative must submit the additional information required to complete the certification application. The commissioner may issue a notice of disapproval under subparagraph (I)(iii) of this subdivision if the CO<sub>2</sub> authorized account representative does not comply with the notice of incompleteness by the specified date. The 120 day review period shall not begin before receipt of a complete certification application
  - (iii) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR 75, or if the certification application is incomplete and the requirement for disapproval under subparagraph (I)(ii) of this subdivision is met, then the commissioner shall issue a written notice of disapproval of the certification application. Upon issuance of

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such notice of disapproval, the provisional certification is no longer valid and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subparagraph (J) of this subdivision for each monitoring system or component thereof, which is disapproved for initial certification.

- (iv) Audit decertification. The commissioner may issue a notice of disapproval of the certification status of a monitor in accordance with subdivision (4)(B) of this subsection.
- (J) Procedures for loss of certification. If the commissioner issues a notice of disapproval of a certification application under subparagraph (I)(iii) of this subdivision or a notice of disapproval of certification status under subparagraph (I)(iv) of this subdivision, then the owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of source operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i) or 40 CFR 75.20(g)(7):
  - (i) For sources using or intending to monitor for CO<sub>2</sub> mass emissions using heat input or for sources using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the source; and
  - (ii) For sources intending to monitor for CO<sub>2</sub> mass emissions using a CO<sub>2</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO<sub>2</sub> and the maximum potential flow rate of the source under 40 CFR 75, Appendix A section 2.1.
- (K) For each disapproved monitoring system, the CO<sub>2</sub> authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (H)(i) and (ii) of this subdivision; and the owner or operator shall repeat all certification tests or other requirements, as indicated in the commissioner's notice of disapproval, no later than 30 source operating days after the date of issuance of the notice of disapproval.
- (L) Initial certification and recertification procedures for low mass emission units using the excepted methodologies under 40 CFR 75.19. The owner or operator of a source qualified to use the low mass emissions excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements of 40 CFR 75.19, 40 CFR 75.20(h) and subdivision (3) of this subsection. If the owner or operator of such a source elects to certify a fuel flow meter system for

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heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20.

- (M) Certification and recertification procedures for alternative monitoring systems. The CO<sub>2</sub> authorized account of each source for which the owner or operator intends to use an alternative monitoring system approved by the commissioner under 40 CFR 75, Subpart E, shall apply for certification to the commissioner prior to use of the system under the CO<sub>2</sub> Budget Trading Program. The CO<sub>2</sub> authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subparagraph (C) of this subdivision. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subparagraph (H) of this subdivision and 40 CFR 75.20(f).
- (4) Out of control periods.
  - (A) Whenever any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR 75, data shall be substituted using the applicable procedures in 40 CFR 75, Subpart D, Appendix D or E.
  - (B) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subdivision (3) of this subsection or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the commissioner will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the commissioner. By issuing the notice of disapproval, the commissioner revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the initial certification or recertification procedures in subdivision (3) of this subsection for each disapproved monitoring system.
- (5) Notifications. The CO<sub>2</sub> authorized account representative for a CO<sub>2</sub> budget source shall submit written notice to the commissioner in accordance with 40 CFR 75.61.
- (6) Recordkeeping and reporting.

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- (A) General provisions. The CO<sub>2</sub> authorized account representative shall comply with all recordkeeping and reporting requirements in this section, the applicable record keeping and reporting requirements under 40 CFR 75.73 and with the certification requirements of subsection (c)(1)(E) of this section.
- (B) Monitoring plans. The owner or operator of a CO<sub>2</sub> budget source shall comply with requirements of 40 CFR 75.62.
- (C) Certification applications. The CO<sub>2</sub> authorized account representative shall submit an application to the commissioner within 45 days after completing all initial certification or recertification tests required under subdivision (3) of this subsection including the information required under CFR 75.63 and 40 CFR 75.73 (c) and (e).
- (D) Quarterly reports. The CO<sub>2</sub> authorized account representative shall report the CO<sub>2</sub> mass emission data and heat input data for the CO<sub>2</sub> budget source, in an electronic format prescribed by the commissioner for each calendar quarter as follows:
  - (i) For a source that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008 through March 31, 2008; or
  - (iii) For a source commencing commercial operation on or after July 1, 2007, the calendar quarter corresponding to, the earlier of the date of provisional certification or the applicable deadline for initial certification under subdivision (2)(B)(iii) of this subsection or, unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008 through March 31, 2008.
- (E) The CO<sub>2</sub> authorized account representative shall submit each quarterly report to the commissioner within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75, Subpart H, and 40 CFR 75.64.
- (F) Quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart H, for each CO<sub>2</sub> budget source, or group of sources using a common stack, as well as information required in 40 CFR 75, Subpart G except for opacity and SO<sub>2</sub> provisions.
- (G) Compliance certification. The CO<sub>2</sub> authorized account representative shall submit to the commissioner a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the source's emissions are correctly and fully monitored. The certification shall state that:

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- (i) The monitoring data submitted were recorded in accordance with the applicable requirements of this subsection and 40 CFR 75, including the quality assurance procedures and specifications;
  - (ii) For a source with add-on CO<sub>2</sub> emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance quality control program under 40 CFR 75, Appendix B and the substitute values do not systematically underestimate CO<sub>2</sub> emissions; and
  - (iii) The CO<sub>2</sub> concentration values substituted for missing data under 40 CFR 75, Subpart D do not systematically underestimate CO<sub>2</sub> emissions.
- (7) Petitions.
- (A) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source that is subject to an CO<sub>2</sub> budget emissions limitation may submit a petition in a form prescribed by the commissioner to the commissioner requesting approval to apply an alternative to any requirement of this subsection.
    - (i) Application of an alternative to any requirement of this subsection is in accordance with this subsection only to the extent that the commissioner approves the petition in writing.
    - (ii) Notwithstanding subparagraph (A)(i) of this subdivision, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72, the petition shall be subject to subparagraph (B) of this subdivision.
  - (B) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source that is not subject to an CO<sub>2</sub> budget emissions limitation may submit a petition, on forms prescribed by the commissioner, to the commissioner requesting approval to apply an alternative to any requirement of this subsection.
    - (i) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source that is subject to an acid rain emissions limitation may submit a petition, on forms prescribed by the commissioner, to the commissioner requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 or a CO<sub>2</sub> concentration CEMS used under 40 CFR 75.71(a)(2).

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- (ii) Application of an alternative to any requirement of this subsection is in accordance with this subsection only to the extent such petition is approved in writing by both the Administrator and the commissioner.
- (8) CO<sub>2</sub> budget units that co-fire eligible biomass.
- (A) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that co-fires eligible biomass as a compliance mechanism under this subsection, shall report the following information to the commissioner for each calendar quarter:
    - (i) Chemical analysis of eligible biomass fired, including carbon content;
    - (ii) Moisture content of eligible biomass for each shipment received for firing at the CO<sub>2</sub> budget unit;
    - (iii) Total eligible biomass fuel input, in tons, to the CO<sub>2</sub> budget unit;
    - (iv) Total eligible biomass heat input on an as-fired basis to the CO<sub>2</sub> budget unit;
    - (v) Heat input rate of eligible biomass to the CO<sub>2</sub> Budget unit in MMBtu/hr;
    - (vi) Fuel feed rate of eligible biomass to the CO<sub>2</sub> budget unit in tons/hr;
    - (vii) Total operating hours for which eligible biomass was co-fired;
    - (viii) CO<sub>2</sub> tons emitted from the CO<sub>2</sub> budget unit due to firing of eligible biomass;
    - (ix) Description and documentation of fuel sampling frequency and methodology; and
    - (x) Description and documentation of monitoring technology employed.
  - (B) CO<sub>2</sub> emissions due to firing of eligible biomass shall be determined as follows:

$$\text{CO}_2 \text{ tons} = B_{\text{HI}} \times B_{\text{EF}}$$

Where:

“CO<sub>2</sub>” is the CO<sub>2</sub> emissions due to firing of eligible biomass for the reporting quarter,

“B<sub>HI</sub>” is the eligible biomass heat input on an as-fired basis, in MMBtu, for the reporting quarter, and

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“B<sub>EF</sub>” is the eligible biomass emissions factor for the reporting quarter in lbs. CO<sub>2</sub>/MMBtu.

- (C) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable Portfolio Standard Biomass Guidebook, 2005.
- (9) Additional requirements to provide net output data.
- (A) A CO<sub>2</sub> budget source in a state that requires the use of information submitted to the Independent System Operator (ISO) to document megawatt-hours (MWh) the CO<sub>2</sub> budget source shall submit to the commissioner the same MWh value submitted to the ISO and a statement certifying that the MWh of electrical output reported reflects the total actual electrical output of the CO<sub>2</sub> budget sources at the facility used by the ISO to determine settlement resources of energy market participants.
  - (B) A CO<sub>2</sub> budget source in a state that requires gross output to be used that also reports gross hourly MW to the Administrator, shall use the same electronic data report (EDR) gross output (in MW), as submitted to the Administrator, for the hour times operating time in the hour, added for all hours in a year. A CO<sub>2</sub> budget source that does not report gross hourly MW to the Administrator shall submit to the commissioner information in accordance with subparagraph (F) of this subdivision.
  - (C) A CO<sub>2</sub> budget source in a state that requires net electrical output, shall submit to the commissioner information in accordance with subparagraph (F) of this subdivision. A CO<sub>2</sub> budget source whose electrical output is not used in ISO energy market settlement determinations shall propose to the commissioner a method for quantification of net electrical output.
  - (D) CO<sub>2</sub> budget sources selling steam should use billing meters to determine net steam output. A CO<sub>2</sub> budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO<sub>2</sub> budget source prior to measurement by the billing meter shall propose to the commissioner an alternative method for quantification of net steam output. If data for steam output is not available, the CO<sub>2</sub> budget source may report heat input providing useful steam output as a surrogate for steam output.
  - (E) Monitoring. The owner or operator of each CO<sub>2</sub> budget source, in a state that has chosen to allocate allowances based on the CO<sub>2</sub> budget source's net output, shall meet the following requirements. Each CO<sub>2</sub> budget source must provide a description of its net output monitoring approach in an output monitoring plan application required by the CO<sub>2</sub> Budget Trading Program under this subdivision. The output monitoring plan application must include the elements described in subparagraphs (F) through (O) of this subdivision.

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- (F) The owner or operator of a CO<sub>2</sub> budget source shall submit, to the commissioner, a diagram of the electrical or steam system for which output is being monitored, specifically including:
- (i) For net electric output, the diagram should contain all CO<sub>2</sub> budget sources and all generators served by each CO<sub>2</sub> budget source and the relationship between CO<sub>2</sub> Budget sources and generators. If a generator served by a CO<sub>2</sub> budget source is also served by a non-affected source, the non-affected source and its relationship to each generator should be indicated on the diagram as well. The diagram should indicate where the net electric output is measured and should include all electrical inputs and outputs to and from the plant. If net electric output is determined using a billing meter, the diagram should show each billing meter used to determine net sales of electricity and should show that all electricity measured at the point of sale is generated by the CO<sub>2</sub> budget sources; and
  - (ii) For net thermal output, the diagram should include all steam or hot water coming into the net steam system, including steam from CO<sub>2</sub> budget sources and non-affected sources, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream will have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system should identify all useful loads, house loads, parasitic loads, any other steam loads and all boiler feed water returns. The diagram will represent all energy losses in the system as either usable or unusable losses. The diagram will also indicate all flow meters, temperature or pressure sensors or other equipment used to calculate gross thermal output. If a sales agreement is used to determine net thermal output, the diagram should show the monitoring equipment used to determine the sales of steam.
- (G) The owner or operator of a subject facility shall submit, to the commissioner, a description of each output monitoring system. The description of the output monitoring system should include a written description of the output system and the equations used to calculate output. For net thermal output systems descriptions and justifications of each useful load should be included.
- (H) The owner or operator of a subject facility shall submit, to the commissioner, a detailed description of all quality assurance and quality control activities that will be performed to maintain the output system in accordance with subparagraph (M) of this subdivision.
- (I) The owner or operator of a subject facility shall submit, to the commissioner, documentation supporting any output values to be used as a missing data value should there be periods of invalid output data. The missing data output value

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must be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this section.

- (J) Initial Certification. A certification statement must be submitted by the CO<sub>2</sub> authorized account representative stating that either the output monitoring system consists entirely of billing meters or that the output monitoring system meets one of the accuracy requirements for non-billing meters below. This statement may be submitted with the certification application required by the CO<sub>2</sub> Budget Trading Program.
- (K) Billing Meters. The billing meter must record the electric or thermal output. Any electric or thermal output values that the facility reports must be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing requirements.
- (L) Non-Billing Meters. For non-billing meters the output monitoring system must either meet, an accuracy of 10 percent of the reference value or each component monitor for the output system must meet an accuracy of 3 percent of the full scale value, whichever is less stringent, as follows:
  - (i) The system approach to accuracy must include a determination of how the system accuracy of 10 percent is achieved using the individual components in the system and should include data loggers and any watt meters used to calculate the final net electric output data or any flow meters for steam or condensate, temperature measurement devices, absolute pressure measurement devices and differential pressure devices used for measuring thermal energy; or
  - (ii) A component approach to accuracy. If testing a piece of output measurement equipment shows that the output readings are not accurate to 3.0 percent or less of the full scale, then retest or replace the measurement equipment and meet that requirement. Data should be considered invalid, prospectively, for purposes of determining allocations. Data remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test.
- (M) Ongoing quality assurance and quality control. Ongoing quality assurance and quality control activities must be performed in order to maintain the output system, which shall include the following.
  - (i) Billing Meters. In the case where billing meters are used to determine output, no quality assurance and quality control activities beyond those already performed are required; and

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- (ii) **Non-Billing Meters.** Certain types of equipment such as potential transformers, current transformers and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate will require periodic retesting. For other types of equipment, either recalibrate or re-verify the meter accuracy at least once every two years, unless a consensus standard allows for less frequent calibrations or accuracy tests. The system approach to accuracy or a component approach to accuracy shall be in accordance with subparagraph (L)(i) or (ii) of this subdivision. If testing a piece of output measurement equipment shows that the output readings are not accurate to 3.0 percent or less of the full scale value, then retest or replace the measurement equipment and meet that requirement.
  
- (N) **Out of Control Periods.** If testing a piece of output measurement equipment shows that the output readings are not accurate to the certification value, data remain valid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes an accuracy test. All invalid data shall be replaced by either zero output or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan under subparagraph (E) of this subdivision.
  
- (O) **Recordkeeping and Reporting.** The CO<sub>2</sub> authorized account representative shall comply with all recordkeeping and reporting requirements in this subparagraph and with the requirements of subsection (c)(1)(E) of this section:
  - (i) **Recordkeeping.** The owner or operator of a CO<sub>2</sub> budge source shall retain data used to monitor, determine or calculate net generation for ten years;
  
  - (ii) **Annual reports.** The CO<sub>2</sub> authorized account representative shall electronically submit to the commissioner an annual net output report by March 1 for the immediately preceding control period; and
  
  - (iii) **The annual report shall be certified as follows:**

"I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the Annual Report. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my

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knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

**(j) Delegation**

The commissioner may delegate through a memorandum of understanding or other agreement the functions specified in subsections ( ), ( ), ( ), ( ) and ( ) of this section to the executive director of any duly authorized regional organization established to assist states with implementing the Regional Greenhouse Gas Initiative.

**(k) Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

**Statement of Purpose**

The purpose of the proposed new Regulations of Connecticut State Agencies ("R.C.S.A.") section 22a-174-31 is to adopt a state rule to implement the Regional Greenhouse Gas Initiative (RGGI), a regional program under which the states of New York, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, New Jersey and Delaware that will:

- Stabilize carbon dioxide emissions from the region's utility sector,
- Allow allocation of emissions offsets to be used for compliance where real reduction of greenhouse gases are achieved outside the regulated sector,
- Require 100% of allowances be allocated for consumer benefit or strategic energy purposes,
- Require demonstration of compliance every three years, and
- Encourage the development of non-carbon emitting generation and related technologies in a format consistent with current Department practices.